

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

Irwin Franchise Corp.,
Plaintiff
-against-Windram Enterprises, Inc.,
et al.,
DefendantOrder Declaring Case Eligible
~~as Ineligible~~ for Mediation07 civ. 3785 (WCC)
ECF CASE

To the Clerk of Court:

1. This case is determined to be:

- ___ A. Not eligible for mediation because the case is:
- ___ i. Not a case in which money damages only have been sought.
 - ___ ii. A social security case.
 - ___ iii. A tax matter.
 - ___ iv. A Pro Se case.
 - ___ v. A prisoners' civil rights case.

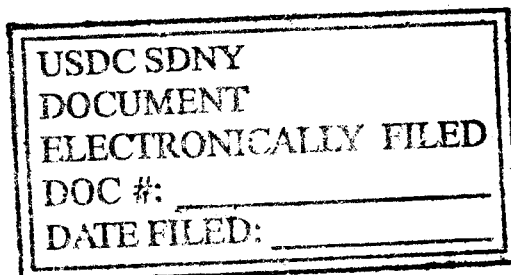
___ B. Not eligible for mediation as otherwise determined by the Court.

☒ C. Eligible for mediation subject to the limitations and restrictions noted below.

If the case has been determined eligible for mediation:

- ☒ i. All issues are eligible.
- ___ ii. Only specific issue(s) is eligible (cite issue(s)).

The entire mediation process is confidential. The parties and the Mediator may not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. The identity of the Mediator is not to be disclosed even to the Court. However, persons authorized by the Court to administer or evaluate the mediation program may have access to information necessary to so administer or evaluate the program and parties, counsel and Mediators may respond to confidential inquiries or surveys by said persons authorized by the Court to administer or evaluate the mediation program.

COPIES MAILED TO COUNSEL OF RECORD for IT
+ E-MAILED TO ΔS' COUNSEL

The mediation process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the mediation process.

Any timetable set by the Court contained in a scheduling order or otherwise governing the completion of discovery, motion practice or trial date, etc. is to be strictly complied with and is in no way changed by the entry of this case into the Court's mediation program.

The parties desire mediation to commence before August 31, 2007. Plaintiff's response to defendants' counterclaims is due August 31, 2007. Mediation should commence as soon as possible.

So Ordered.

Dated: July 9, 2007

White Plains, New York

William C. Conner
U.S.D.J.

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July 6, 2007

VIA FACSIMILE (914-390-4170)

Hon. William C. Conner
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

**Re: Irwin Franchise Capital Corporation v.
Windram Enterprises, Inc.**

Index No. 07-CIV. 3785

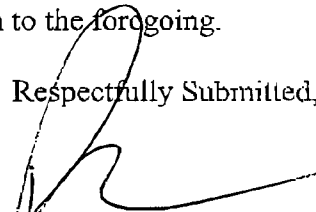
Our File No. LL1125.RWM

Dear Judge Conner:

Permit this letter to confirm the parties stipulation made today during the preliminary conference. It was agreed by counsel for this matter to proceed to mediation as quickly as possible, with the mediation to be concluded on or behalf August 31, 2007. This letter is being sent, via facsimile, at the direction of Your Honors Court Room Clerk.

We thank the court for its time and attention to the foregoing.

Respectfully Submitted,



Richard W. Mackiewicz, Jr., Esq.

cc: Joseph N. Paykin, Esq. (Via Facsimile 212-684-9022)

RWM/cml